



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

WILLIAM EUGENE WEBB,

Plaintiff,

VS.

MATTHEW B. HAMIDULLAH, Warden; §
DENNIS HENDERSHOT, Warden of Programs; §
and KATHRYN MACK, Supervisor of §
Education; §

Defendants.

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CIVIL ACTION NO. 0:05-0728-HFF-BM

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE, DISMISSING THIS ACTION *WITHOUT PREJUDICE* AND WITHOUT ISSUANCE AND SERVICE OF PROCESS, AND DEEMING THE DISMISSAL AS A STRIKE

This is a prisoner case. Plaintiff is proceeding *pro se*. The matter is before the Court for review of the United States Magistrate Judge’s Report and Recommendation (Report) suggesting that the action be dismissed *without prejudice* and without issuance and service of process. The Magistrate Judge also recommends that the dismissal be deemed a “strike” under the “three strikes” rule of 28 U.S.C. § 1915(g). The Report is made in accordance with 28 U.S.C. § 636 and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on February 21, 2006. Plaintiff failed to file any objections to the Report. In the absence of objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that this action must be **DISMISSED** *without prejudice* and without issuance and service of process. Furthermore, finding that 28 U.S.C. § 1915(g) is applicable to the dismissal of this case, the Court deems the dismissal as a **STRIKE**.

The Court has also carefully considered Plaintiff's request for injunctive relief. Plaintiff, however, has failed to set forth a proper basis on which this Court could appropriately award such relief. Therefore, Plaintiff's request for injunctive relief is **DENIED**.

IT IS SO ORDERED.

Signed this 14th day of March, 2006, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

____ Plaintiff is hereby notified of the right to appeal this Order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.